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May 5, 2016

Louisiana Board of Ethics
P.O. Box 4368
Baton Rouge, LA 70821

Re: Request for advisory ethics opinion

Dear Sir or Madam:

I am the District Attorney for the Thirty-Eighth Judicial District (Cameron Parish) and, as such I am the legal advisor for all parish boards and agencies.

We have suffered a decline in population since Hurricanes Rita and Ike, and our population is currently about 6,700 people throughout the parish (far **less than 10,000**). Since our population is so low, we have experienced great difficulty filling positions on various boards and commissions. This fact is relevant to our question, as will be seen below.

A question has recently arisen regarding the Johnson Bayou Recreational Board. **All members of the Recreational Board are appointed by the parish governing authority (Cameron Parish Police Jury).** The Board employs a director, and also employs seasonal and part-time employees. For example, life guards will be employed in the summer months. The Board has inquired as to whether an ethical violation would occur if an immediate family member of the Board or the director were to be employed by the Board. Also, the director, who has been employed by the

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Board for several years, is concerned as to whether an ethical violation is presented by the fact that his son-in-law recently became a board member.

We are aware that the Ethics Code generally prohibits certain contractual relationships. Generally speaking, public employees and their immediate family members cannot contract or conduct business with the agency in which the public employee is employed. However, three exceptions are provided for this rule in LSA-R.S. 42:1113. Exceptions are made for 1) legislators, 2) any appointed member of a board or commission, and 3) a police juror of a parish with a population of 10,000 people or less.¹ It is unclear whether the modifying phrase "of a parish with a population of 10,000 people or less" refers only to "a member of a governing authority" or to both "a member of a governing authority" **and** "any appointed member of any board or commission". Regardless of the interpretation given to this phrase, the exclusion would apply to members of the Johnson Bayou Recreational Board, since they are appointed and serve in a parish with a population of less than 10,000. A "transaction under the supervision or jurisdiction of the agency" appears to be a broad term including any proceeding, application, etc., which will be the subject of action by the governmental entity. LSA-R.S. 42:1102 (23).

Also pertinent to this inquiry is LSA-R.S. 42:1119, which provides that no member of the immediate family of an agency head shall be employed in his agency. An "agency head" is defined by LSA-R.S. 42:1102(3) as including "any member of a board or commission who exercises supervision over the agency."

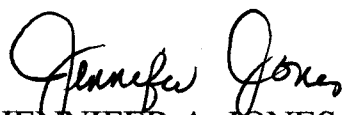
Further, LSA-R.S. 42:1112 and 1120.4 provide that no appointed board member shall participate in discussion or vote involving their immediate family members. The statutes refer to any situation where the family member has a "substantial economic interest."

Finally, pursuant to R.S. 42:1119C.2, it appears to be clear that the director is not precluded from continuing his employment with the Board after his immediate family member becomes a member of the Board.

¹ A. (1)(a) No public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, . . . shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

We have received conflicting opinions on this issue in the past and would very much like to get this issue resolved. As stated earlier, it is very difficult to fill these positions, and it seems that the exception set forth in R.S. 42:1113 was designed to address this very problem. Should the Board be permitted to employ immediate family members in temporary or part-time positions, the Board members would recuse themselves from any discussion involving the immediate family member. We appreciate your help in this matter.

Sincerely,


JENNIFER A. JONES
District Attorney

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